

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 587/2010

Friday, this the 04th day of November, 2011

CORAM:

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

P.S. Radhakrishnan Nair,
(Retired Deputy General Manager (Vigilance)
O/o. CGMT, BSNL, Thiruvananthapuram),
T.C.22/584(3), KMRA-24,
Konchiravila, Manacaud,
Thiruvananthapuram – 695 001

(By Advocate Mr. Vishnu S. Chempazhanthivil)

versus

1. The Controller of Communication Accounts, Kerala Circle, Thiruvananthapuram: 695033
2. Union of India, represented by The Secretary, Department of Telecommunications, Sanchar Bhavan, New Delhi.
3. The Chief General Manager, Office of the CGMT, BSNL, Thiruvananthapuram : 695 033

(By Advocate Mr. Millu Dandapani, ACGSC for R1-2 and Mr. N. Naqresh for R-3)

This Original Application having been heard on 04.11.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A. has been filed by the applicant for the following reliefs:

(i) Direct the respondents 1 & 2 to rectify the pensionary benefits of the applicant in terms of Annexure A3 reply given by the BSNL:

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(ii) Declare that the action on the part of the 1st respondent in sanctioning reduced pensionary benefits without notice to the applicant is illegal and arbitrary;

(iii) Direct the respondents 1 & 2 to grant pensionary benefits after taking into account the stepping up of pay granted to the applicant and release the arrears forthwith with 9% interest;

(iv) Any other further relief or order as this Hon'ble may deem fit and proper to meet the ends of justice.

2. The applicant in this O.A while working as an employee of the Telecom Department was granted stepping up of pay in the year 2006 to be effective from 01.01.1996 vide Memo No. AP/90-139/2000 dated 06.10.2000. When the applicant retired on 01.01.2009, his pension was sanctioned without taking into account the stepping up of pay granted in the year 2000. Inspite of several representations to the competent authority, no action was taken to redress the grievance of the applicant. Hence the O.A.

3. During the pendency of this O.A, the respondents granted the pensionary benefits to the applicant taking into account his stepping up of pay. What remains for consideration is the question of payment of interest for the period of delay from 20.03.2009 till date of payment.

4. Vide Annexure A-3 dated 20.03.2009, the Chief General Manager Telecom, Thiruvananthapuram, had intimated that the stepping up in the case of the applicant was proper. Despite the above intimation, no action was taken to release the withheld pensionary benefits till September, 2010. The applicant submitted that the 1st respondent should have taken action to grant the entitled pensionary benefits at least immediately after getting the

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clarification dated 20.03.2009. Not doing so is illegal, arbitrary and discriminatory.

5. The respondents in their reply statement submitted that as per Rule 65 of the CCS (Pension) Rules, 1972, the Controller of Communication of Accounts shall apply the requisite checks and assess the pension. Pension once authorised after final assessment shall not be revised to the disadvantage of the government servant unless such revision becomes necessary on account of detection of a clerical error subsequently. Since they could obtain a copy of letter No. 4-20/95-PAT dated 19.01.1996, action has been taken to revise the pensionary benefits of the applicant taking into account the stepping up granted to him. Rule 68 of CCS (Pension) Rules, 1972, allows interest on delayed payment of Gratuity only. The submission of the applicant for interest for a total amount of Rs. 94,988/- which is inclusive of arrears of pension, commuted value of pension and gratuity is not admissible. The delay in sanctioning of pension and related benefits after considering the stepping up of pay of the applicant was due to non availability of orders relevant to the case in the office of Controller of Communication Accounts. In view of the above, the O.A is liable to be dismissed.

6. I have heard Mr. Vishnu S. Chempazhanthiyil, learned counsel for the applicant, Mr. Millu Dandapani, learned ACGSC for the respondents No. 1 and 2 and Mr. N. Nagresh, learned counsel for the respondent No. 3 and perused the records.

7. It is seen that even after obtaining a copy of the relevant order, there

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was a delay of about 1 ½ years in releasing the amount of Rs. 94,988/- to the applicant by way of terminal benefits. It is necessary to check the correctness of the pension amount and other benefits before authorising the payment. But the checking should be done in time so that there is no delay in making the payment to the beneficiary. The applicant is entitled to retiral benefits after a life time of service. Even after getting the communication dated 20.03.2009 (Anenxure A-3) intimating that the stepping up in the case of the applicant was proper, there was inordinate delay on the part of the respondents in releasing the pensionary benefits to the applicant. This delay cannot be justified. The applicant has been denied the use of the amount paid belatedly and the respondents illegally enriched themselves by retaining the amount payable to the applicant for quite some time. The Apex Court has held in *Padmanabhan Nair vs. State of Kerala*, AIR 1985 SC 356, that the retirement benefits should be paid to an employee at least within two months from the date of retirement and that the interest should be paid at the market rate if there is delay of more than two months from the date of retirement. In *Dua vs. State of Haryana*, AIR 2008 SC 1077, the Apex Court has held that where payment of terminal benefit is delayed, the employee is entitled to be compensated by award of interest. In the instant case, an amount of Rs. 94,988/- has been unjustly withheld from the applicant from 20.03.2009 till 02.09.2010. It is only just and fair if the applicant is compensated for this period by award of interest. Accordingly, the O.A. deserves to be allowed.

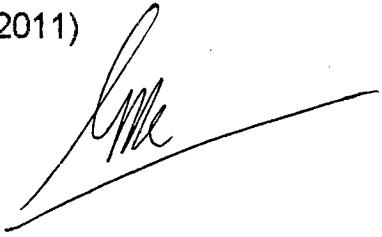
8. The respondents 1 and 2 are directed to pay the interest @ 9% per annum to the applicant on the amount of RS. 94,988/- for the period from

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20.03.2009 to 02.09.2010 within a period of 60 days from the date of receipt of a copy of this order. Penal interest @12% per annum should be paid to the applicant for the period of delay, if any, beyond the period stipulated. The amount of such penal interest should be recovered from the officer responsible for the delay.

9. The O.A. is allowed as above with no order as to costs. ,

(Dated, the 04th November, 2011)



(K. **GEORGE JOSEPH**)
ADMINISTRATIVE MEMBER

CVR.